

January 18, 2017

The Honorable John Barrasso
Chairman, U.S. Senate Committee
on Environment & Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Carper
Ranking Member, U.S. Senate Committee
on Environment & Public Works
456 Dirksen Senate Office Building

*Re: Attorney General Scott Pruitt's
Nomination To Serve As Director of the
Environmental Protection Agency*

Dear Chairman Barrasso, Ranking Member Carper, and Members of the U.S. Senate
Environment and Public Works Committee,

My name is Dustin McDaniel. I am an attorney in Little Rock, Arkansas. I served as the Democratic Attorney General of the State of Arkansas from 2007-2015. During that time, I served for three years as the Co-Chair of the Democratic Attorneys General Association. I am a member of the Democratic National Committee and was a strong supporter of Secretary Clinton's campaign for President. I am grateful for your work on this committee. I believe in the core mission of the Environmental Protection Agency. I believe that climate change is real and overwhelmingly the result of human activity. I believe that the United States has a moral obligation to lead the world in shaping climate policy. These challenges in a hostile political environment will be acutely felt by the next director of the EPA.

As you consider the nomination of my friend Scott Pruitt, I respectfully ask that you enter this letter into the record so that I may attempt to clarify what I believe to be unfair criticisms of the historic agreement negotiated between myself on behalf of the State of Arkansas and Attorney General Pruitt on behalf of the State of Oklahoma regarding water quality in the Illinois River watershed.

Prior to the elections of General Pruitt or myself, Oklahoma grappled with Arkansas municipal water systems and Arkansas industry, primarily poultry companies, over increased phosphorous levels in the Illinois River watershed. Pollution was substantially impacting the water quality in one of Oklahoma's most scenic waterways. In 2003, an agreement was executed that would require that the phosphorus levels be reduced over the next 10 years to a level .037 parts per million. As a result, all parties on both sides of the state line worked diligently to substantially improve the water quality.

At the same time, then-Oklahoma Attorney General Drew Edmondson filed suit using an out of state plaintiffs' firm against Arkansas's poultry industry. Many criticized the litigation as taking the focus away from the environment and placing it on money damages. The State of Oklahoma's outside counsel presented their case to U.S. District Court Judge Gregory Frizzell. Almost all the claims were dismissed by the court. The evidence was fully submitted to the judge in March of 2010 on the remaining question regarding injunctive relief. To this day, no ruling in that litigation has been handed down.

As 2013, the ten-year deadline for the reduced phosphorus levels, was approaching, two things were evident: 1.) despite huge improvements in water quality, the phosphorus levels in the river would not be at .037 parts per million before the deadline, and 2.) research into the standard itself called into question its origin and basis in hard science.

The States of Arkansas and Oklahoma were facing a point of litigating against one another (again) over this issue to the detriment of all concerned. I approached General Pruitt to ask if we could reach a solution that would protect the environment and demonstrate to our citizens that we were committed to working together on their behalf rather than litigating against one another using taxpayer dollars for lawyers instead of scientists.

The resulting agreement reflects that Oklahoma enhanced, not relaxed, its enforcement of environmental protections. Scientists were appointed to establish the proper water quality metrics, establish a binding standard, and at no time were phosphorous abatement measures relaxed. It was an historic moment that demonstrated that cooperation in pursuit of environmental protection yielded better results than litigation. The resulting report was recently released from the commission and is available for your review. (See, www.ok.gov/conservation/documents/IR%202016.12.19%20Final%20Report.pdf)

Recent press accounts regarding these efforts unfairly mischaracterize the work that was done by General Pruitt and his team. He was a staunch defender of sound science and good policy as appropriate tools to protect the environment of his state. I saw firsthand how General Pruitt was able to bridge political divides and manage multiple agency agendas to reach an outcome that was heralded by most credible observers as both positive and historic.

As I am sure that this committee will have questions about this matter, I wanted to take this opportunity to add facts and context to an accomplishment that should stand as a credit to General Pruitt's career and qualifications for this nomination.

I sincerely appreciate the opportunity to submit this letter to you and to your committee and to be a part of the record in these proceedings. I thank you for your service to our nation.

Respectfully submitted,



Dustin McDaniel